

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**UNITED STATES OF AMERICA,
Plaintiff,**

vs.

CRIMINAL ACTION NO. 2:12cr14

**ROBERT L. RECKART, JR.,
Defendant.**

ORDER/OPINION

On the 17th day of May, 2012, Defendant's Pretrial Services Officer, Brian Kilgore, filed a Petition for Action on Conditions of Pretrial Release, alleging Defendant violated his conditions of release by possessing a firearm in his residence. On the 21st day of May, 2012, came Defendant, Robert Reckart, in person and by his counsel William O'Brien. The Government appeared by its United States Attorney William Ihlenfeld, II. The Court heard the testimony of United States Pretrial Services officer William Bechtold and admitted Government and Defense exhibits.

Upon consideration of all which, the Court finds the following facts:

1. On May 8, 2012, the Court entered an Order Setting Conditions of Release, which prohibited Defendant from possessing any firearm, weapon, or destructive device.
2. During a viewing of the residence, Pretrial Services Officers found a .22 caliber rifle and ammunition for other firearms in a storage area of the basement of the residence.
3. The Court does not find by a preponderance of the evidence that Defendant constructively possessed the firearm or even knew the firearm was present.
4. The Court does not find by a preponderance of the evidence that the firearm was loaded, operational or that there was ammunition which would fit the firearm in the house.

Based upon all of which, the Court **DISMISSES** the petition and denies the relief requested therein.

For the safety of the community, law enforcement officers (including but not limited to the United States Pretrial Services Office), and Defendant and his family, the Court further **ORDERS** the addition to Defendant's conditions of release of the following:

1. Defendant shall permit Pretrial Services officers access to his residence and property in order to conduct searches. Such searches are to include drawers, boxes, and other spaces in which firearms or ammunition could be stored.
2. Any and all firearms, including but not limited to BB guns, are to be removed from the residence.

It is so **ORDERED**.

The United States District Clerk for the Northern District of West Virginia is directed to provide a copy of this Order to counsel or record.

DATED: May 22, 2012.

John S. Kaul

JOHN S KAULL
UNITED STATES MAGISTRATE JUDGE